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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 ASHTON KRUKOWSKI,

Case No. 2:16-cv-01782-APG-PAL

8 Plaintiff,

9 v.

**ORDER**

10 LVMPD, et al.,

11 Defendants.

12 This matter is before the court on Plaintiff Ashton Krukowski's Notice of Complaint  
13 (ECF No. 1), filed July 26, 2016. This Notice is referred to the undersigned pursuant to 28  
14 U.S.C. § 636(b)(1)(A) and LR IB 1-3 and 1-7 of the Local Rules of Practice. Also before the  
15 court is Plaintiff's Motion to Freeze Proceeding (ECF No. 8), which asks to freeze this case until  
16 appeal of his motion to dismiss counsel and appointment of alternate counsel is heard by the  
17 Nevada Supreme Court and "appeal to bound case over for civil proceeding has completed  
18 appealing."

19 Mr. Krukowski is a prisoner in the custody of the Clark County Detention Center  
20 ("CCDC") and is proceeding in this action *pro se*, which means that he is not represented by an  
21 attorney. See LSR 2-1. He submitted a Complaint (ECF No. 1-1) as part of his initiating  
22 documents, but did not pay the \$400.00 filing fee or submit an application to proceed *in forma*  
23 *pauperis* ("IFP"). In order to proceed in this action without paying the standard filing fee, LSR  
24 1-1 of the Local Rules of Practice and 28 U.S.C. § 1915 provide that a litigant must submit the  
25 Court's form IFP application. Additionally, LSR 1-2 and § 1915 specifically require three items  
26 be submitted to this Court with a prisoner's IFP application: (1) a financial certificate signed by  
27 an authorized officer of the institution in which he or she is incarcerated, (2) a copy of his or her  
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1 inmate trust account statement for the six-month period prior to filing, and (3) a signed financial  
2 affidavit showing an inability to prepay fees and costs or give security for them.

3 In general, when a district court grants a prisoner IFP status, federal law states that “the  
4 prisoner shall be required to pay the full amount of the filing fee.” 28 U.S.C. § 1915(b)(1).  
5 Prisoners must pay an initial partial filing fee of the greater of twenty percent (20%) of the  
6 average monthly deposits or twenty percent (20%) of the average monthly balance of his account  
7 for the six months immediately preceding the start of this action. *See* 28 U.S.C. § 1915(b)(1).  
8 After the initial partial filing fee is paid, the facility having custody of the prisoner will forward  
9 payments from the prisoner’s account each month. *See* 28 U.S.C. § 1915(b)(2). Monthly  
10 payments from an inmate’s account will continue until the balance is paid, even if the action is  
11 dismissed.

12 If Mr. Krukowski wants to file his complaint, he must prepay the \$400 filing fee or  
13 submit an IFP application along with the documents identified above. However, he is advised  
14 that even if he does, the court must still screen his complaint to determine if it states a valid  
15 claim for relief. *See* 28 U.S.C. § 1915A (“The court shall review, before docketing, if feasible  
16 or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a  
17 prisoner seeks redress from a government entity or officer or employee of a governmental  
18 entity”).

19 Additionally, LSR 2-1 of the Local Rules of Practice states that a “civil rights complaint  
20 filed by a person who is not represented by counsel *must be submitted on the form provided by*  
21 *this court.*” *Id.* (emphasis added). Mr. Krukowski submitted a complaint on what appears to be  
22 lined notebook paper, not the court’s approved form. If he wants to move forward with his  
23 claims, he must submit an amended complaint on the court’s approved form by **September 22,**  
24 **2016.**

25 The amended complaint must contain a short and plain statement of: (1) the grounds for  
26 the court’s jurisdiction; (2) any claim he has showing he is entitled to relief; and (3) a demand for  
27 the relief he seeks. *See* Fed. R. Civ. P. 8(a). The amended complaint should set forth the claims  
28 in short and plain terms, simply, concisely, and directly. *See Swierkeiwicz v. Sorema N.A.*, 534

1 U.S. 506, 514 (2002); *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 640 (9th Cir. 1988). This  
 2 means that Mr. Krukowski should avoid legal jargon and conclusions. Instead, he should  
 3 summarize the information he believes to be relevant in his own words for each claim asserted in  
 4 the amended complaint. *Iqbal*, 556 U.S. at 678 (Rule 8 demands “more than labels and  
 5 conclusions” or a “formulaic recitation of the elements of a cause of action”).

6 Mr. Krukowski is advised to support each of his claims with factual allegations, because  
 7 all complaints “must contain sufficient allegations of underlying facts to give fair notice and to  
 8 enable the opposing party to defend itself effectively.” *Starr*, 652 F.3d at 1216. When claims  
 9 are alleged against multiple defendants, the complaint should clearly indicate which claims apply  
 10 to which defendant. *McHenry v. Renne*, 84 F.3d 1172, 1178 (9th Cir. 1995). There can be no  
 11 liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a  
 12 defendant’s actions and the claimed deprivation. *May v. Enomoto*, 633 F.2d 164, 167 (9th Cir.  
 13 1980); *Johnson v. Duffy*, 588 F.2d 740, 743 (9th Cir. 1978); *Rizzo v. Goode*, 423 U.S. 362  
 14 (1976). Mr. Krukowski should specifically identify each defendant to the best of his ability,  
 15 clarify what constitutional right he believes each defendant has violated and support each claim  
 16 with factual allegations about each defendant’s actions. Where multiple claims are alleged, the  
 17 complaint should identify which factual allegations give rise to each particular claim. *McHenry*,  
 18 84 F.3d at 1178. A complaint must state “enough facts to raise a reasonable expectation that  
 19 discovery will reveal evidence” of the allegations charged. *Cafasso, United States ex rel. v.*  
 20 *General Dynamics C4 Systems, Inc.*, 637 F.3d 1047, 1055 (9th Cir. 2011) (quoting *Twombly*, 550  
 21 U.S. at 556).

22 Mr. Krukowski is also informed that the court cannot refer to a prior pleading (*i.e.*, the  
 23 original complaint) in order to make the amended complaint complete. Local Rule 15-1 requires  
 24 that an amended complaint be complete in itself without reference to any prior pleading. *See* LR  
 25 15-1(a). This is because, as a general rule, an amended complaint supersedes the original  
 26 complaint. *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015). Once a  
 27 plaintiff files an amended complaint, the original pleading no longer serves any function in the  
 28 case. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Therefore, in an amended

1 complaint, as in an original complaint, each claim and the involvement of each defendant must  
2 be sufficiently alleged.

3 Accordingly,

4 **IT IS ORDERED:**

- 5 1. The Clerk of Court shall FILE Plaintiff Ashton Krukowski's Complaint (ECF No. 1-  
6 1) but SHALL NOT issue summons.
- 7 2. Mr. Krukowski's Complaint is DISMISSED with leave to amend by **September 22,**  
8 **2016.**
- 9 3. The Clerk of the Court shall MAIL Mr. Krukowski the following blank forms along  
10 with instructions for completing the forms: (a) Civil Rights Complaint Pursuant to 42  
11 U.S.C. § 1983, and (b) Application to Proceed *in Forma Pauperis* for incarcerated  
12 litigants.
- 13 4. Mr. Krukowski shall have until **September 22, 2016**, to:
  - 14 a. file the Application to Proceed *in Forma Pauperis*, along with a signed  
15 and executed financial certificate, a signed and executed financial  
16 affidavit, and a statement of his inmate trust account, or
  - 17 b. pay the \$400 filing fee of four hundred dollars, accompanied by a copy of  
18 this Order.
- 19 5. Mr. Krukowski shall have until **September 22, 2016**, to file an amended complaint if  
20 he believes he can correct the noted deficiencies: The amended complaint must be a  
21 complete document in and of itself and will supersede the original complaint in its  
22 entirety. Any allegations, parties, or requests for relief from prior papers that are not  
23 carried forward in the amended complaint will no longer be before the court.
- 24 6. Mr. Krukowski shall clearly title the amended complaint as such by placing the words  
25 "FIRST AMENDED" immediately above "Civil Rights Complaint Pursuant to 42  
26 U.S.C. § 1983" in the caption on the first page and write 2:16-cv-01782-APG-PAL in  
27 the space for "Case No."

